

Notice of Allowability

Application No.

10/694,664

Examiner

Dmitry Suhol

Applicant(s)

GARTNER ET AL.

Art Unit

3725

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to applicant's amendment filed 4/28/05 and affidavit filed 5/31/05.
2. ☒ The allowed claim(s) is/are 2-4, 8-13, 15 and 18-20.
3. ☒ The drawings filed on 29 October 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____



DERRIS H. BANKS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

EXAMINER'S AMENDMENT

Response to Amendment

The affidavit filed on May 31st, 2005 under 37 CFR 1.131 is sufficient to overcome the Doty '394 and Doty '170 references.

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

The application has been amended as follows:

In the specification, page 1, line 4, after "December 13, 2001, and assigned Serial No. 10/015,442" insert - - now abandoned - -.

REASONS FOR ALLOWANCE

The following is an examiner's statement of reasons for allowance: The specific limitations of (with respect to claims 8 and 18) "...wherein a first plurality of labels are located adjacent to a first odor-containing source and the first plurality of labels are fruit, Cinnamon, woody and coconut; wherein a second plurality of labels are located adjacent to a second odor-containing source and the second plurality of labels are turpentine, soap, dog and black pepper; wherein a third plurality of labels are located adjacent to a third odor-containing source and the third plurality of labels are motor oil,

Art Unit: 3725

garlic, rose and lemon; wherein a fourth plurality of labels are located adjacent to a fourth odor-containing source and the fourth plurality of labels are apple, grass, smoke and grape; wherein a fifth plurality of labels are located adjacent to a fifth odor-containing source and the fifth plurality of labels are lemon, strawberry, chocolate and black pepper; wherein a sixth plurality of labels are located adjacent to a sixth odor-containing source and the sixth plurality of labels are mint rose, lime and fruit: wherein a seventh plurality of labels are located adjacent to a seventh odor-containing source and the seventh plurality of labels are watermelon, peanut, rose and paint thinner; wherein an eighth plurality of labels are located adjacent to an eighth odor-containing source and the eighth plurality of labels are banana, garlic, cherry and motor oil; wherein a ninth plurality of labels are located adjacent to a ninth odor-containing source and the ninth plurality of labels are smoke, whiskey, pineapple and onion; wherein a tenth plurality of labels are located adjacent to a tenth odor-containing source and the tenth plurality of labels are rose, lemon, apple and gasoline; wherein an eleventh plurality of labels are located adjacent to an eleventh odor-containing source and the eleventh plurality of labels are soap, black pepper, chocolate and peanut; and wherein a twelfth plurality of labels are located adjacent to a twelfth odor-containing source and the twelfth plurality of labels are chocolate, banana, onion and fruit” are not anticipated or made obvious over the prior art of record in the examiners opinion. For example, the Doty article “Recent Progress in the Development of a Clinically Useful Microencapsulated Olfactory Function Test” discloses a booklet with a plurality of scratch and sniff odor sources and a plurality of labels located next to the odor sources

Art Unit: 3725

for evaluating smell disfunction. Cotman (WO 89/00398) discloses the link between smell disfunction and Alzheimer's disease while at the same time also teaching a plurality of odor sources and labels for guessing what the odor sources are. However prior art of record fails to disclose the layout and specific odors as stated above.

Furthermore, Cotman actually teaches away from the odors claimed since he states that the odors used with his invention should not be familiar. The advantage of specific odors utilized by the applicant and their respective locations is described at page 8 in applicants specification. It should be noted that Doty (US 6,557,394 and 2002/0139170) do not serve as a valid references since applicants have filed an affidavit swearing behind the date of filing which has been accepted.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dmitry Suhol whose telephone number is 571-272-4430. The examiner can normally be reached on Mon - Friday 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on (571) 272-4419. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3725

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

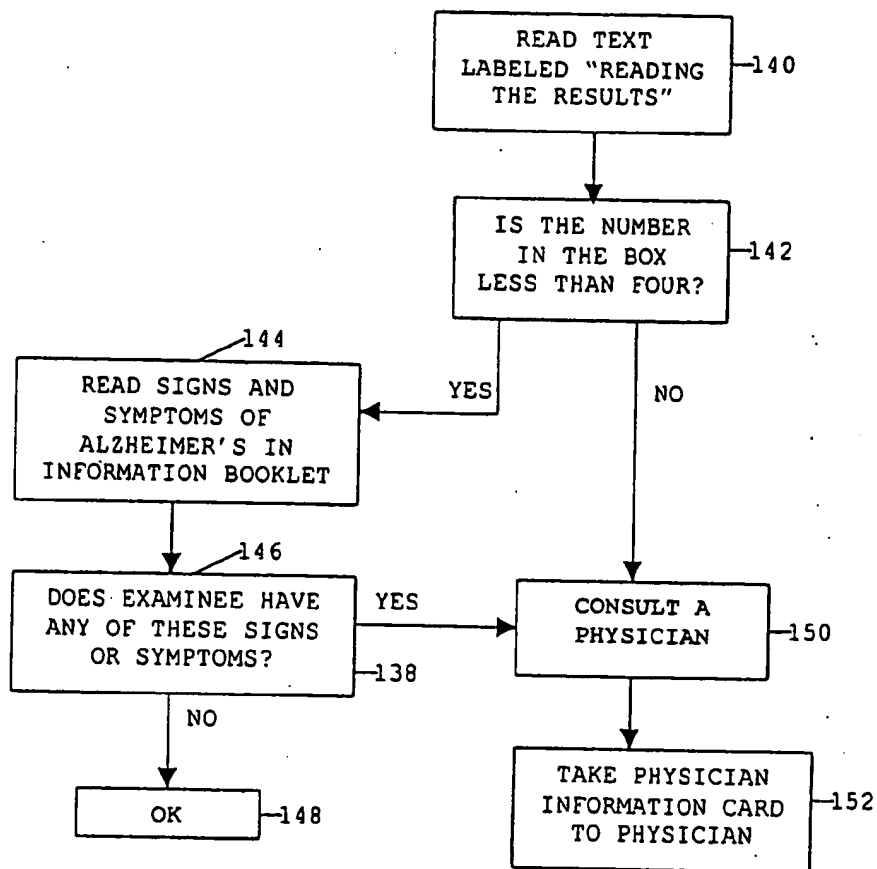
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434/354

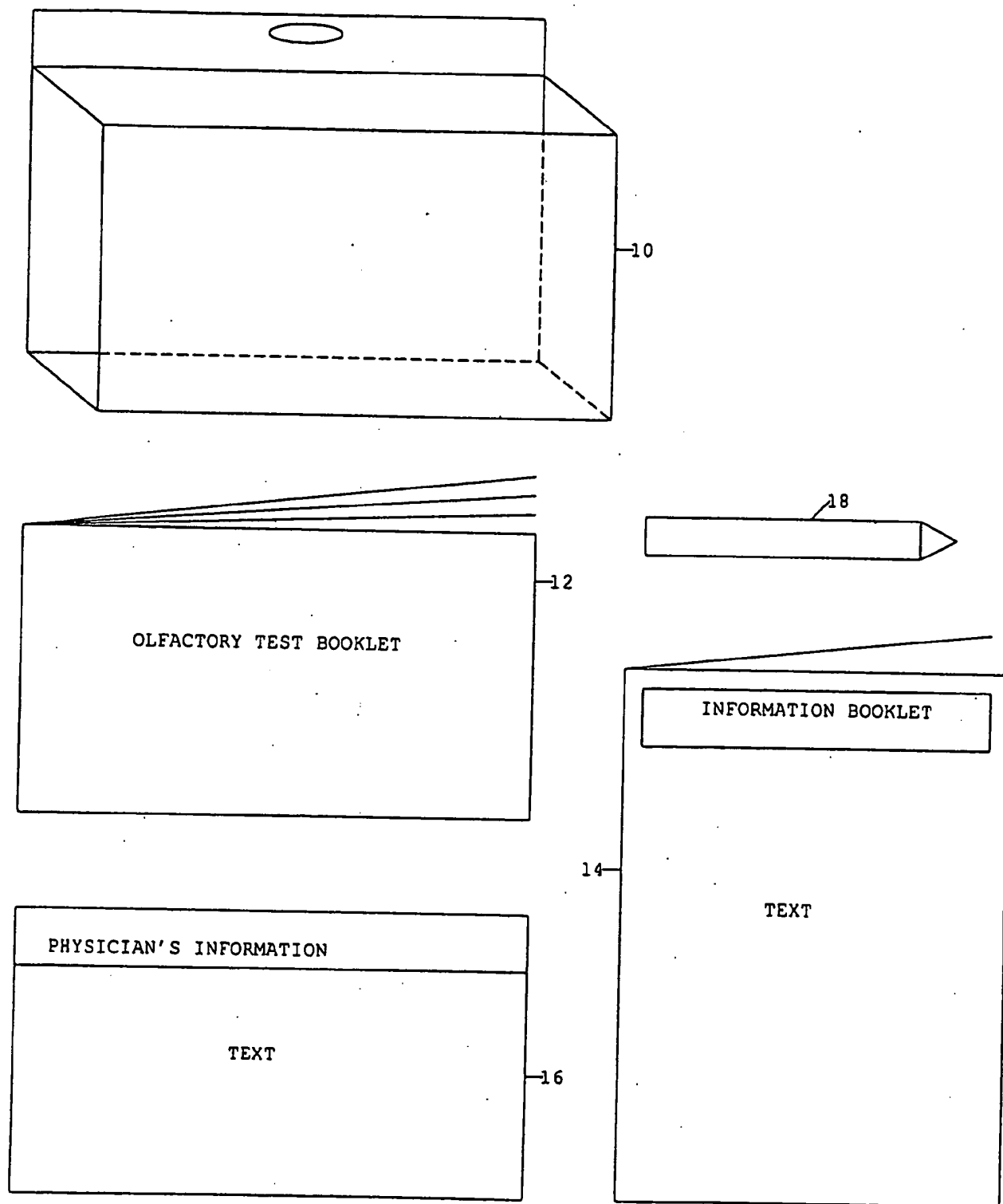
FIG. 7D



434/354

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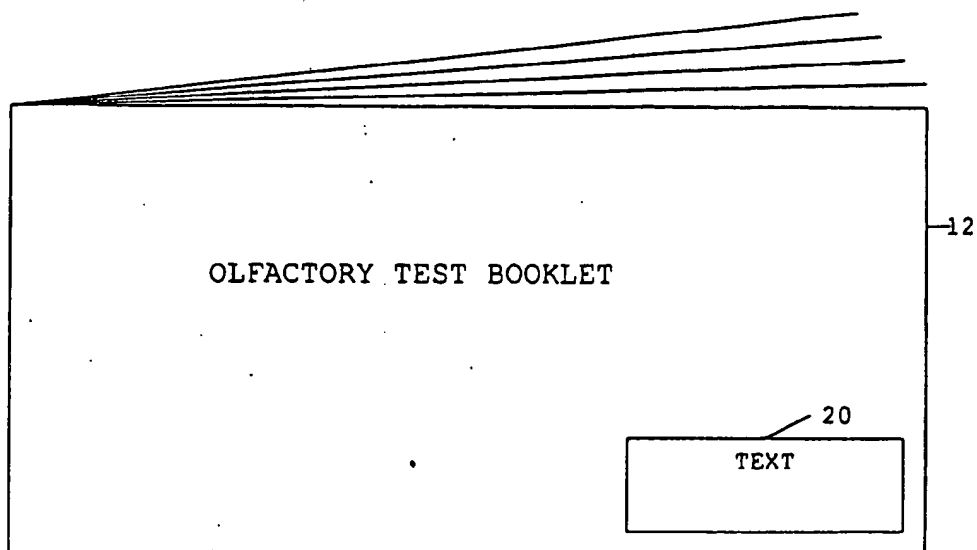
FIG. 1



434/354

340885.90013
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FIG. 2



434/354

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FIG. 3A

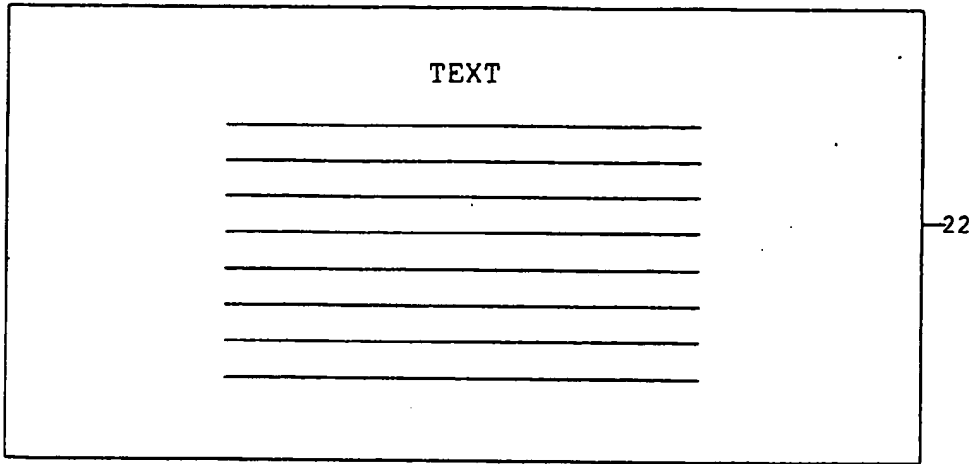
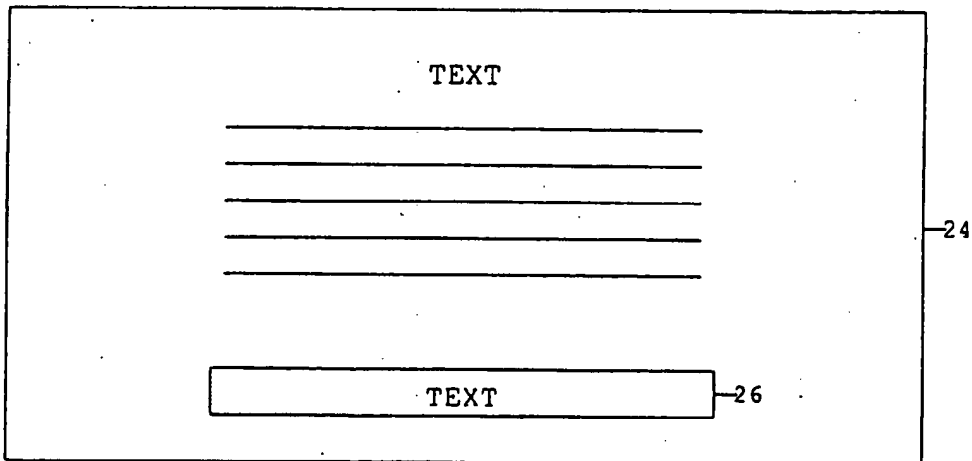


FIG. 3B



434/354

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FIG. 4

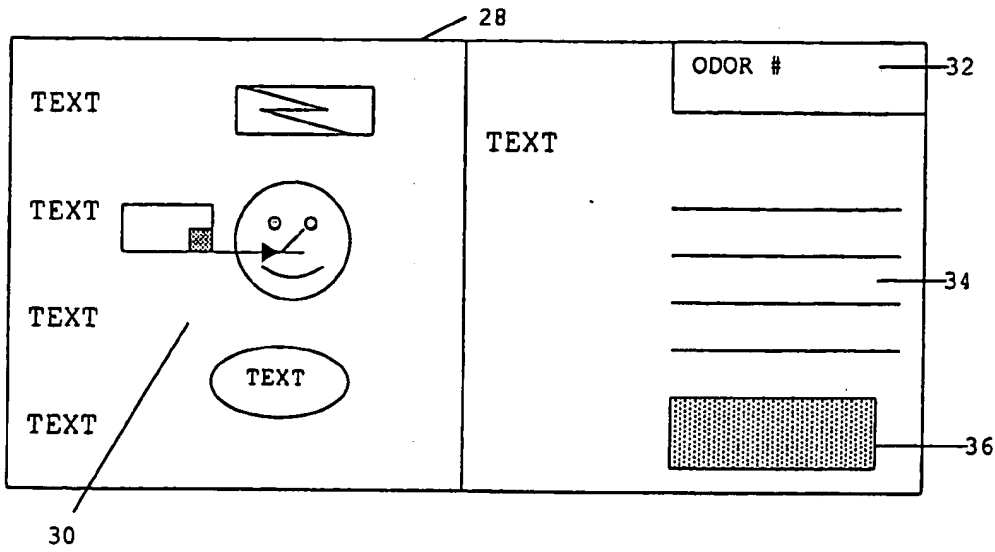
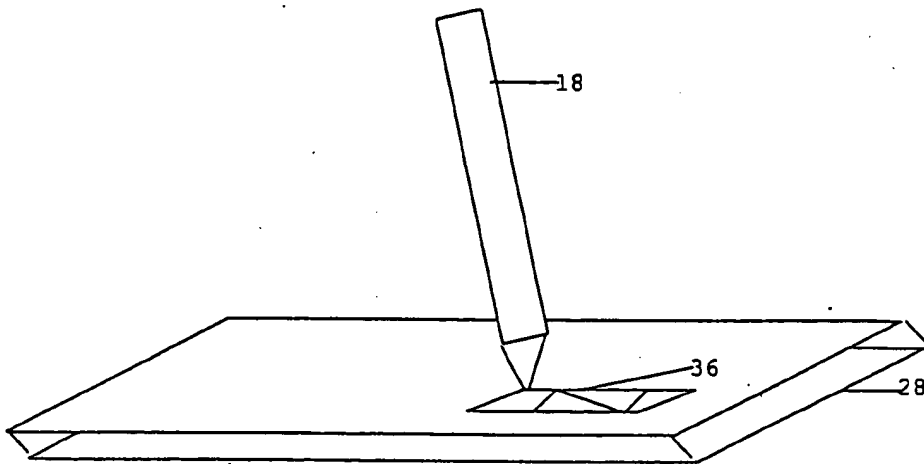


FIG. 5



434/354

FIG. 6A

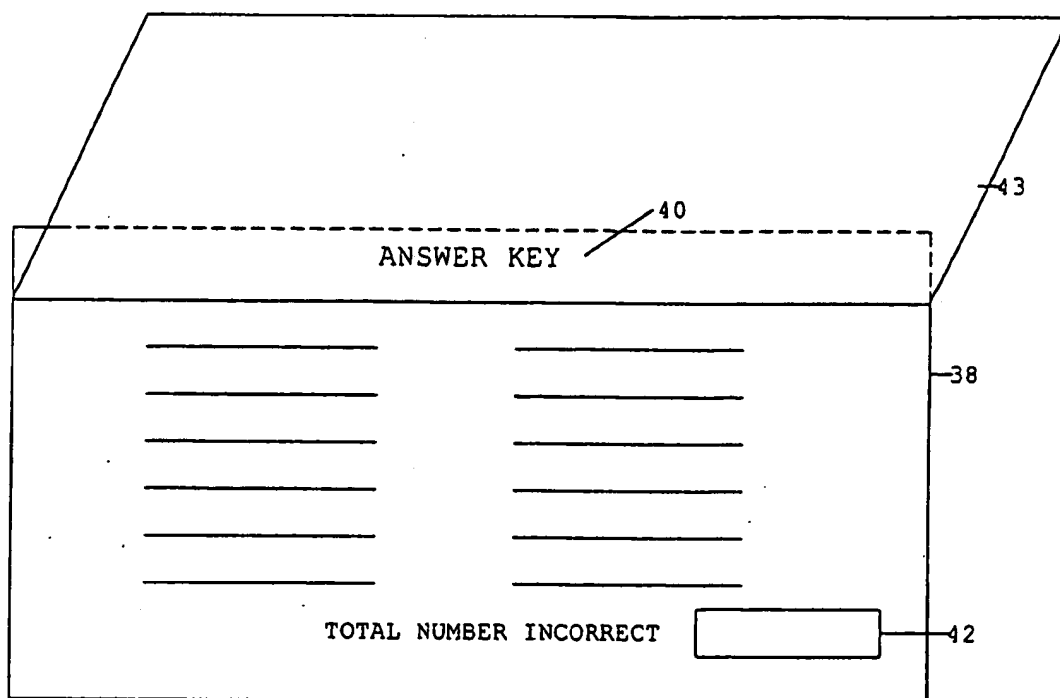
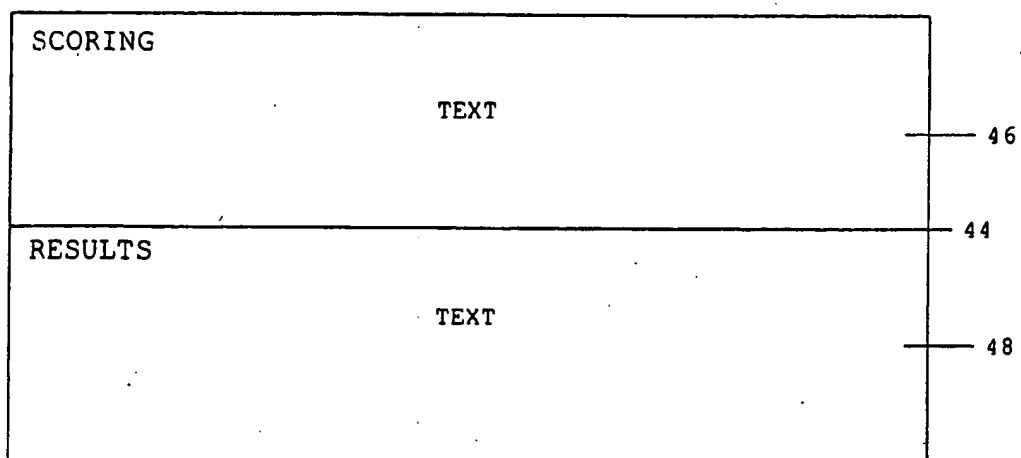


FIG. 6B



434/354

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FIG. 6C

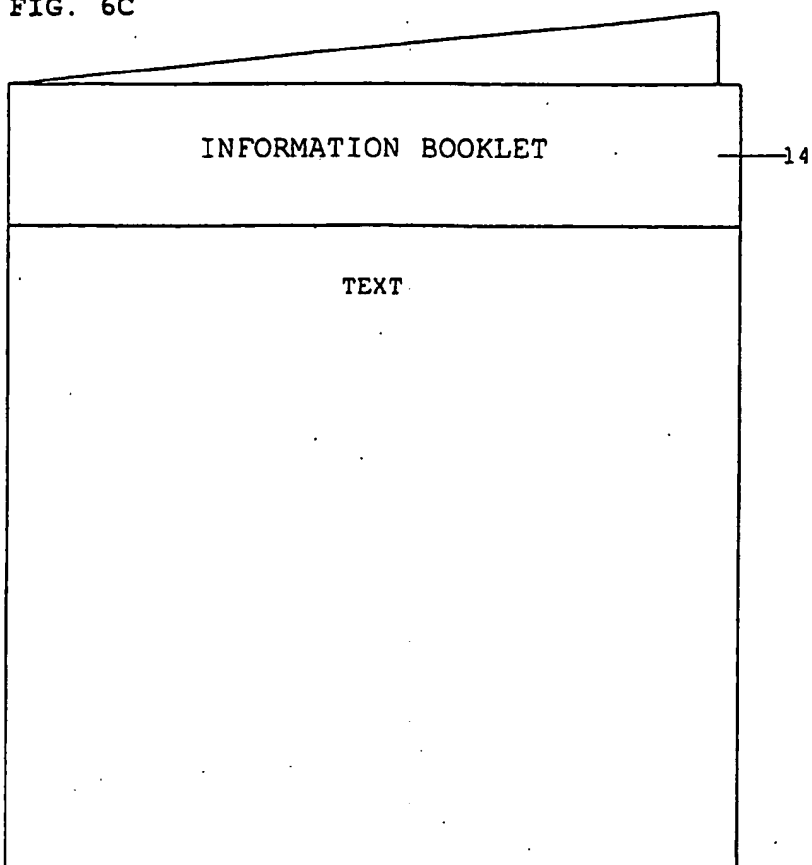
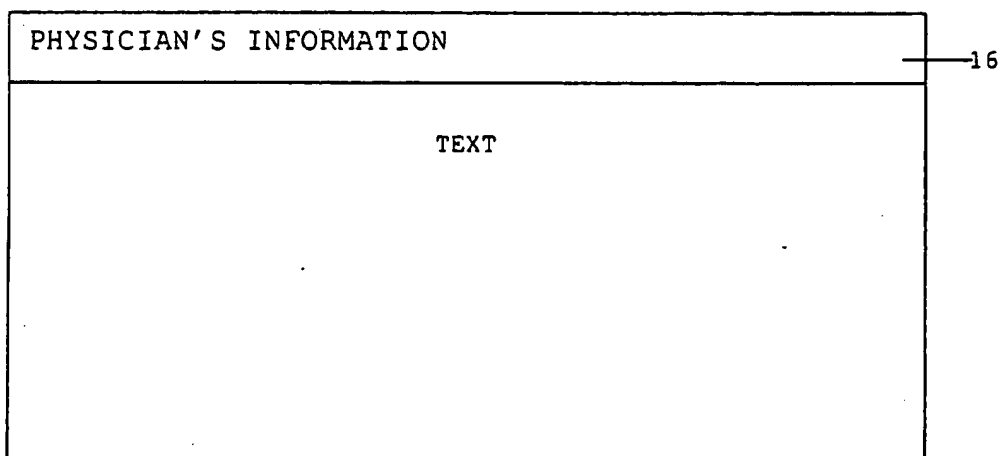
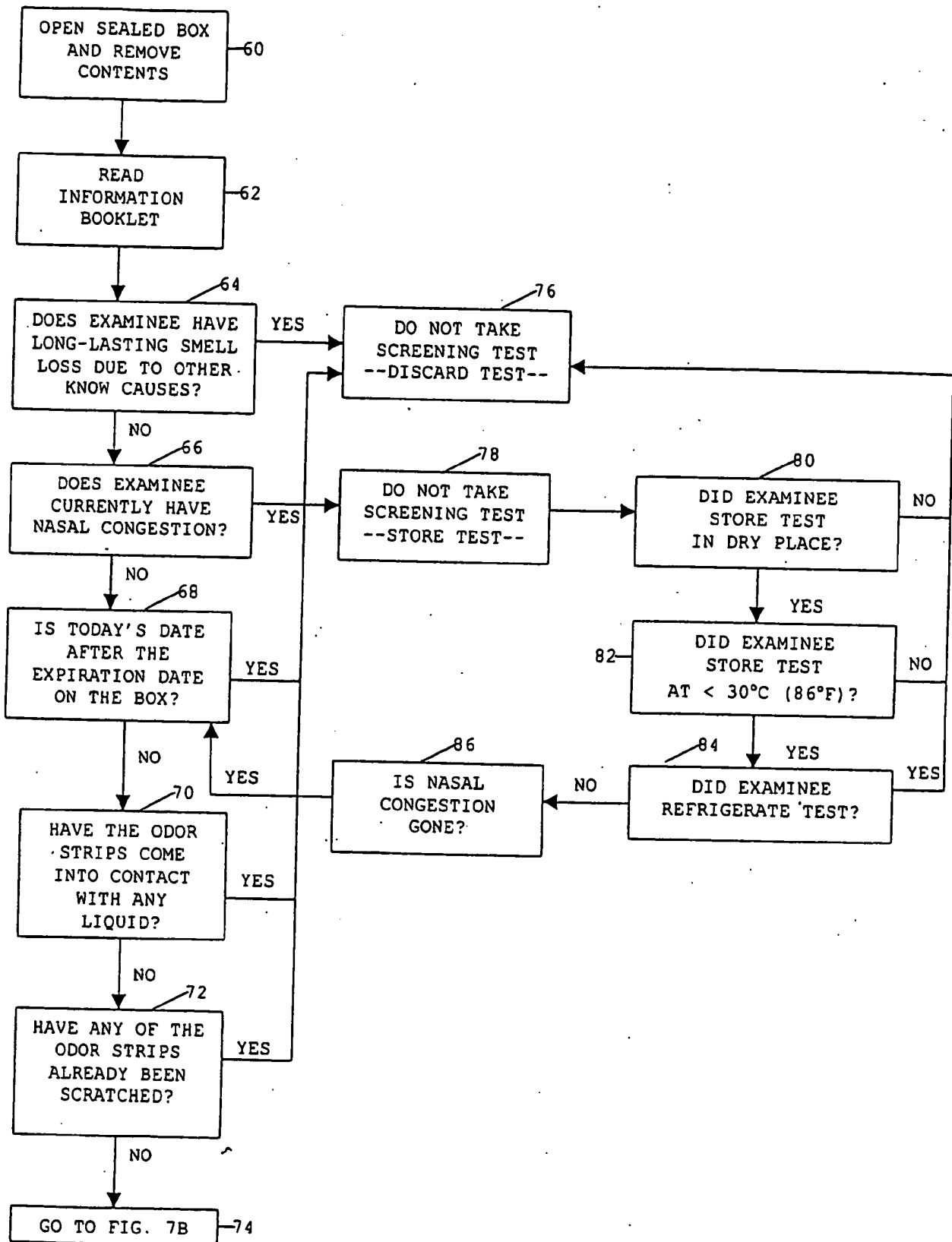


FIG. 6D



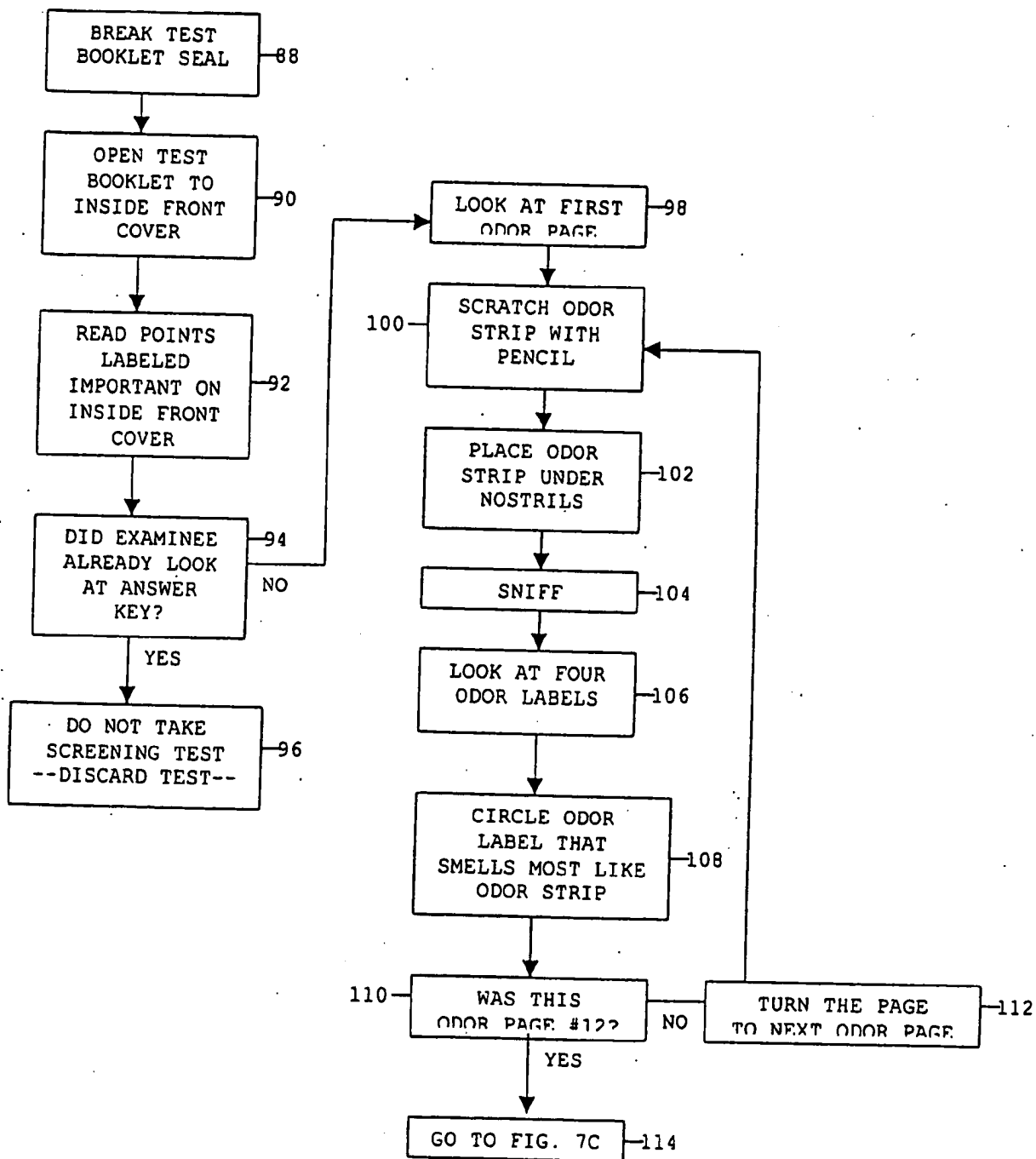
434/354

FIG. 7A



434/354

FIG. 7B



434/354

FIG. 7C

